



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0001; FRL-9981-50-Region 10]

Air Plan Approval; Washington; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the regional haze State Implementation Plan (SIP) submitted by Washington on November 6, 2017. Washington submitted its Regional Haze Progress Report (“progress report” or “report”) and a negative declaration stating that further revision of the existing regional haze SIP is not needed at this time. Washington submitted both the progress report and the negative declaration in the form of implementation plan revisions as required by federal regulations. The progress report addresses the federal Regional Haze Rule requirements under the Clean Air Act to submit a report describing progress in achieving reasonable progress goals established for regional haze and a determination of the adequacy of the state’s existing plan addressing regional haze.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2018-0001. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy

form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553-0256, or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

I. Background Information

On May 31, 2018, the EPA proposed to approve Washington’s Regional Haze Progress Report (83 FR 24954). An explanation of the Clean Air Act requirements, a detailed analysis of the submittal, and the EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for the proposal ended July 2, 2018.

II. Response to Comments

We received six comments on the rulemaking. After reviewing the comments, we have determined that four of the comments are outside the scope of our proposed action and fail to identify any material issue necessitating a response. The fifth and sixth comments, submitted by TransAlta Centralia Generation LLC (TransAlta) and an anonymous commenter, are described below.

Comment 0012: In its comment, TransAlta stated: “We write to comment on the future operations of TransAlta’s Centralia Power Plant in the Regional Haze 5-Year Progress Report. The Progress Report and its supporting documents describe the ‘retirement’ or ‘closure’ of

TransAlta's Centralia Power Plant in reference to reducing emissions and impacts. However, TransAlta and a number of other parties have always anticipated that when the Centralia Power Plant ceases coal-fired operations, it would likely convert one or both boilers to use gas instead of coal. Rather than shuttering the plant, TransAlta envisions retrofitting the facility to accommodate fuel-switching to natural gas as a means to supply power for Washington State until renewable energy is reliably sufficient. TransAlta estimates a reduction in emissions as a result of this fuel-switching, but does not anticipate ceasing operations or closing the Centralia Power Plant.” TransAlta then requested that the EPA make specific wording changes to the narrative text of the state’s progress report, and supporting documents, to reflect this position.

Comment 0013: Purportedly in response to TransAlta’s Comment 0012, an anonymous commenter stated: “The agreement to close a plant means that it is CLOSED. The last minute attempt to re-engineer the plant to burn a different type of fossil fuel is a contradiction of the plan.”

Response: Under the Clean Air Act the EPA has the authority to approve or disapprove SIP revisions submitted by the states. We do not have the authority to modify the narrative text of state submissions, or supporting documents, other than disapproval or partial disapproval. To the extent TransAlta believes that Washington’s narrative description of the existing best available retrofit technology (BART) Order 6426 (order) is ambiguous or incorrect regarding facility operation after 2020 and 2025, this comment could have been submitted during the state public comment period. In reviewing *Appendix G. Ecology’s Responses to Comments Received during the Public Comment Period*, we see no evidence of TransAlta requesting changes or

commenting on this issue during the state public comment period.¹

As discussed in the proposal for this action, the primary purpose of the progress report is to evaluate whether the existing regional haze plan is adequate for meeting the reasonable progress goals (RPGs) established for the first regional haze planning period, ending in 2018. The TransAlta BART order, as approved into the SIP states, “Coal units BW21 and BW22 will permanently cease burning coal and be decommissioned as follows: (4.1) One coal fired unit must permanently cease burning coal no later than December 31, 2020. (4.2) The second coal fired unit must permanently cease burning coal no later than December 31, 2025.” To the extent that TransAlta and Washington may or may not agree about the interpretation of these conditions as they relate to potential future revisions to the BART order, potential future changes under the new source review program, or potential use of the facility beyond 2020 and 2025, we note these issues are outside the scope of this action evaluating progress during the first planning period. We encourage TransAlta to resolve these issues directly with Washington as the state develops the regional haze update for the next planning period (2018-2028). In the interim, we do not believe this comment constitutes a sufficient basis for disapproving or partially disapproving Washington’s progress report. As stated in our proposed approval of Washington’s Regional Haze Progress Report, the progress report contained the information required by 40 CFR 51.308 and demonstrated that Washington is meeting or exceeding all reasonable progress goals for all Class I areas within Washington’s borders, and implementation of the regional haze SIP has enabled other nearby states to meet RPGs for Class I areas where Washington sources are

¹ The EPA was sent a copy of TransAlta’s December 13, 2017, letter with similar comments. This letter was written after the state public comment period closed on August 1, 2017, and also after submission of the SIP revision to the EPA on November 6, 2017.

reasonably anticipated to contribute to visibility impairment. In addition, Washington's progress report contained an assessment of the status of all measures included in the SIP that were implemented during the first planning period, such as compliance with the BART emission limit for nitrogen oxides at TransAlta's Centralia Power Plant. Therefore, our position remains that the appropriate action is to approve Washington's Regional Haze Progress Report.

III. Final Action

The EPA is approving the Washington Regional Haze Progress Report, submitted on November 6, 2017, as meeting the applicable requirements of the Clean Air Act and the federal Regional Haze Rule, as set forth in 40 CFR 51.308(g). The EPA is also approving Washington's determination that the existing regional haze SIP is adequate to meet the state's visibility goals established for the first planning period and requires no substantive revision at this time, as set forth in 40 CFR 51.308(h). We have also determined that Washington fulfilled the requirements in 40 CFR 51.308(i) regarding state coordination with Federal Land Managers.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because actions such as SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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Dated: July 23, 2018.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW – Washington

2. In § 52.2470(e), amend table 2 by adding the entry “Regional Haze Progress Report” after the entry “Regional Haze State Implementation Plan—BP Cherry Point Refinery BART Revision” to read as follows:

§ 52.2470 Identification of plan.

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TABLE 2 – ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
* * * * *				
Regional Haze Progress Report	Statewide	11/6/2017	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
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[FR Doc. 2018-16266 Filed: 7/30/2018 8:45 am; Publication Date: 7/31/2018]